Southeast Ohio Emergency Medical Services, Inc. *and* United Mine Workers of America, AFL–CIO. Cases 9–CA–32256, 9–CA–32334, and 9–CA–32518

March 25, 1998

DECISION AND ORDER

BY CHAIRMAN GOULD AND MEMBERS FOX AND HURTGEN

On May 15, 1996, Administrative Law Judge Robert T. Wallace issued the attached decision. The Charging Party filed exceptions and a supporting brief. The Respondent filed a response.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the decision and record in light of the exceptions and briefs and has decided to affirm the judge's rulings, findings,[1] and conclusions and to adopt the recommended Order.

Our dissenting colleague would find that the Respondent violated the Act by its disciplinary suspensions and ultimate discharge of employee John Caudill and by its issuance of a written reprimand to employee Chris Davis. We disagree.

We believe that the judge correctly found that there was ''mutual antipathy'' between Caudill and his supervisor, Delores Dalton, but that the various disciplines imposed on Caudill were not due to protected activities. In this regard, we note Caudill's testimony, cited by the judge:

> Before she was chief dispatcher, we had a working relationship where she was very nice and things went well. But whenever she became chief dispatcher, yes, we did have clashes because of the way her personality went from a regular person to a monster overnight.

Dalton became chief dispatcher in November 1993. Thus, by Caudill's own account, the hostility between him and Dalton preceded by about 4 months his attendance at the March 22, 1994 meeting of the board of trustees cited by our colleague. As to that meeting, we emphasize the judge's findings that Caudill was 1 of 35 employees there and that there is no indication that he played a leading role.

Caudill's participation in the Union's campaign seems to have been quite minimal. He signed an authorization card and delivered blank cards to another employee. There was no evidence that the Respondent knew of even this limited involvement. It is true that Caudill was given a 10-day suspension 20 days after the Union filed an unfair labor practice charge on his behalf. We note, however, that the Respondent is in the business of providing *emergency* medical services. Time is of the essence. The stakes are high. The suspension resulted from, in the judge's understated formulation, ''an admitted serious dereliction.'' Specifically, the judge found that Caudill

> was suspended 10 days for allowing himself to be distracted over a 10-minute period on September 17 from dispatching an ambulance to a patient undergoing an emergency asthma attack. Asked whether the incident had occurred, Caudill shrugged and replied: ''It happens.''

The final discipline meted out to Caudill was a 30-day suspension that became a termination when Caudill failed to provide adequate information indicating that his employment should not be terminated. As with the prior discipline, this one was not occasioned by trivial lapses. During a blizzard, he delayed dispatching two ambulances (one for 15 minutes, the other for 45), failed to effectuate a requested fire department alert, and declined Dalton's offer to come in to help him (she lived less than 10 minutes away), even though he was obviously overwhelmed by the volume of incoming calls.

In sum, the hostility between Dalton and Caudill long predated the beginning of union-related or charge-filing activity, Caudill's role in the campaign was minimal, and the derelictions for which he was ultimately terminated were extremely serious, indeed, potentially catastrophic. In light of these facts, and also taking into account the judge's finding of an absence of any history of antiunion animus on the part of the Respondent, we are not persuaded that the Respondent's discipline of Caudill was unlawful.

With respect to Davis' reprimand, we note that there was no showing that Dalton, who supervises Davis, was concerned about, or even knew of, Davis' union activities. The judge suggested that the reprimand of Davis was an attempt to dispel any impression that the warning to Caudill was motivated by *personal animosity*. Our colleague correctly points out that when an employee is disciplined to disguise the unlawfully motivated discipline of another employee, the discipline of both employees is unlawful. In the instant case, Dalton was at most seeking to dispel any impression that Caudill's warning was motivated by personal animosity. However, as discussed above, this personal animosity was not based on union activity. In other words, since Caudill's discipline was not unlawfully motivated, the fact that Davis may have been disciplined in part to dispel the possible inference that

[1] The Charging Party has excepted to some of the judge's credibility findings. The Board's established policy is not to overrule an administrative law judge's credibility resolutions unless the clear preponderance of all the relevant evidence convinces us that they are incorrect. *Standard Dry Wall Products*, 91 NLRB 544 (1950), enfd. 188 F.2d 362 (3d Cir. 1951). We have carefully examined the record and find no basis for reversing the findings.

Caudill was disciplined because of personal animosity does not render Davis' discipline unlawful. We therefore agree with the judge that the Respondent's reprimand of Davis was not unlawful.

ORDER

The recommended Order of the administrative law judge is adopted and the complaint is dismissed.

MEMBER FOX, dissenting in part.

Contrary to my colleagues, I would find that the Respondent violated Section 8(a)(3) and (1) of the Act and Section 8(a)(4) and (1) of the Act as alleged in the second consolidated complaint by its disciplinary suspensions and ultimate discharge of employee John Caudill and by its issuance of a written reprimand to employee Chris Davis. I would therefore reverse the judge's dismissals of those allegations.

The judge found that the suspensions and discharge of Caudill were prompted by a ''mutual antipathy between him and supervisor [Dolores] Dalton'' and he noted that the disciplinary actions ''may have been unjust in some instances.'' He dismissed the complaint allegations because he concluded that Caudill's union activities were minimal, at least so far as they were known to the Respondent. The judge was not persuaded that the treatment of Caudill, however unfair it might have been, was attributable to protected activities.

In my view, the judge ignored the significance of his own factual findings regarding the events which precipitated, in his words, the ''deepening tension'' between Dalton and Caudill and which immediately preceded a series of disciplinary actions against Caudill; and he also failed to note the closeness in time between Caudill's open involvement in a Board proceeding filed by the Union and the most severe of the disciplinary actions against him.

In March 1994,[1] a group of 35 of the Respondent's employees attended a meeting of the Respondent's board of trustees at which an employee spokesman (not Caudill) aired employee workplace complaints, mentioned that some employees had been attending union meetings, and warned that remedial action should be taken ''before they had to actually go to a union.'' Caudill was among the group attending that meeting, and the judge further found:

> In between board sessions [Chief Dispatcher] Dalton saw Caudill in a hallway talking to an employee (Amber Pyle) whom she had recently disciplined. As she passed them, Dalton heard her name mentioned and both gave her what she perceived to be ''a dirty look.''
>
> At work on the following day an angry Dalton, referring to the ''Amber incident,'' confronted Caudill telling him that if he had problems with her she wished he would discuss them ''to my face rather than behind my back.''

Three days later, the Respondent's manager, Eric Kuhn, at Dalton's insistence, orally admonished Caudill for being insubordinate by ''talking about'' Dalton on the day of the Board meeting. Thereafter in March and April Caudill was the subject of several written records of ''conversations'' regarding conduct that had previously been regarded as a minor matter or had otherwise not elicited comment.

Beginning in April, support for the Union grew, and the Union filed a petition for a representation election on which a hearing was held in late August. On September 9, Caudill was cited for bypassing Dalton when he made a work improvement suggestion to Kuhn and for failing to record in a log that a communication tower warning light was working on that night. The Respondent then gave Dalton a 1-day suspension for the logging omission even though, as the judge found, such omissions had occurred before without any disciplinary action. Soon thereafter, the Respondent took it upon itself to review all the logs and retroactively issue citations to other employees for similar omissions that had occurred months earlier.

On September 21, the Regional Director issued his report directing an election, and about 2 weeks later Caudill received a 3-day suspension for a group of alleged omissions or performance flaws, none of which had been discussed with Caudill before he received the memo announcing the discipline. On October 7, the Union filed an unfair labor practice charge citing, among other things, actions taken against Caudill. The 10-day suspension, the 30-day suspension, and the discharge all took place after this. In imposing the 10-day suspension about 3 weeks after the unfair labor practice charge was filed, the Respondent relied on its ''review'' of the tape of dispatches on September 17, the shift which the Respondent had already scrutinized as a predicate for imposing the 3-day suspension before the charge was filed. In imposing the 30-day suspension, the Respondent relied on errors allegedly committed by Caudill during what the judge described as ''the severest ice storm within local memory''—errors which Dalton identified by spending ''considerable time listening to'' tapes of communications to and from Caudill during the storm.

I find this sequence of events a sufficient basis for inferring that the Respondent's agent, Dalton, conceived a view of Caudill as someone who discussed workplace problems with other employees instead of communicating one-on-one with management, and that Dalton was motivated in her subsequent treatment of Caudill by that view. Caudill had the right, protected

[1] All dates hereafter are in 1994.

under Section 7 of the Act, to discuss employee complaints with fellow employees, and the action against him for ''the Amber incident'' manifested animus against such protected activity. Although the actions taken against Caudill in March and April were outside the 10(b) period and therefore cannot serve as the basis for any unfair labor practice findings, they are properly considered as background, and they clearly represent the beginning of a pattern of discipline imposed on this 10-year employee that was disparate in comparison with past treatment of similar conduct. The discipline started up again in the fall after the Union's campaign reached a serious stage, and the most severe discipline occurred after Caudill was named in an unfair labor practice charge filed by the Union.

In sum, I would find on this record that the discipline imposed on Caudill up through October 5 was motivated by the Respondent's animus toward Caudill's concerted activity, which was associated by virtue of statements at the March 22 meeting, with union activity. I would further find that the evidence permits an inference that the discipline imposed after October 7 was also motivated by Caudill's involvement in the unfair labor practice charge filed against the Respondent. Even assuming that some of the disciplinary instances could be viewed as dual-motive actions, I would find violations of Section 8(a)(4), (3), and (1) of the Act because in my view the Respondent has not carried the burden of proving that, absent Caudill's protected activities, it would still have disciplined and discharged Caudill as it did.

There are two independent bases for finding that the September 15 written reprimand to Chris Davis violated the Act as alleged. First, Davis had associated himself with the Union's organizational effort by testifying at the late August representation hearing, and given the timing, one may infer animus against his role in that regard. Even more compellingly, however, a finding of unlawful motivation for the reprimand logically follows from my finding that the September 9 discipline of Caudill for the logging omission was unlawfully motivated. Davis' reprimand came about in the wake of that incident, when the Respondent reviewed all its logs and retroactively made a record of ostensibly consistent discipline for this type of logging omission. The judge himself found that one probable reason for the action against Davis was the Respondent's ''attempt to dispel any impression that the warning to Caudill was motivated by personal animosity.'' When an employee is disciplined simply in order to protect the employer's unlawfully motivated discipline of another employee against legal attack, both employees are effectively penalized as a result of the employer's unlawful animus and the actions against both violate the Act. *Fast Food Merchandisers*, 291 NLRB 897, 898 (1988). See also *Cecil I. Walker Machinery Co.*, 305 NLRB 172, 191 (1991) (layoff of entire group of employees a ''disguise'' for intent to lay off those within the group who supported the union; all were discriminatees). Hence, I would also find that the Respondent violated Section 8(a)(4), (3), and (1) of the Act with respect to the reprimand issued to Davis.

Donald A. Becher, Esq., for the General Counsel.
J. Rick Brown, Esq. (Mowery, Brown and Blume) and *Robert W. Cross*, of Wheelersburg, Ohio, for the Respondent.
William B. Manion, Esq., of Washington, Pennsylvania, for the Charging Party.

STATEMENT OF THE CASE

ROBERT T. WALLACE, Administrative Law Judge. This case was tried in Jackson, Ohio, on June 20 through 22 and August 1 and 2, 1995. The original charge was filed on October 7, 1994,[1] and the initial complaint issued on December 12.

At issue is whether Southeast Ohio Emergency Medical Services, Inc. (Respondent) denied an employee's request for union representation at a disciplinary interview in violation of Section 8(a)(1) of the National Labor Relations Act and discharged and otherwise disciplined employees because they supported the Union and gave testimony in connection with Board proceedings in violation of Section 8(a)(1), (3), and (4) of the Act.

On the entire record, including my observation of the demeanor of the witnesses, and after considering briefs filed by all *parties*, I make the following

FINDINGS OF FACT

I. JURISDICTION

Respondent provides emergency medical and ambulance services in southeastern Ohio and, in connection therewith, it annually derives gross revenues in excess of $1 million and purchases and receives at its Ohio facilities goods valued in excess of $25,000 directly from points outside the State of Ohio. It admits, and I find, that it is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

II. ALLEGED UNFAIR LABOR PRACTICES

A. *Background*

Respondent, a nonprofit corporation established as a joint venture by 4 county governments, has approximately 175 employees consisting mainly of: (1) emergency medical technicians (EMTs) and advanced EMTs who operate a fleet of ambulances and (2) dispatchers who work in a headquarters in Gallipolis. The latter also provide dispatching services for a number of fire departments. A board of trustees consisting of representatives of the counties, a medical service provider, and a civilian oversees operations through an executive director.

On October 27, 1994, following an election, the UMW was certified as collective-bargaining representative of Re-

[1] All dates begin in 1994 and extend sequentially into 1995.

spondent's hourly employees. As of the August 2 close of hearing in this case negotiations for an initial collective-bargaining agreement continued.

B. *John Caudill*

Caudill, an alleged discriminatee, was hired by Respondent as an EMT in August 1985. He became an advanced EMT, a part-time dispatcher in 1987, a full-time dispatcher in 1992, and he continued in that capacity until February 1995 when he was discharged following a 30-day suspension.

Delores Dalton was Caudill's immediate supervisor, having been appointed chief dispatcher in November 1993. Prior to that time she had been a coworker with Caudill in the dispatch center. According to Caudill:

> Before she was chief dispatcher, we had a working relationship where she was very nice and things went well. But whenever she became chief dispatcher, yes, we did have clashes because of the way her personality went from a regular person to a monster overnight.

On March 22 Caudill was 1 of 35 hourly employees who attended a regularly scheduled meeting of the board of trustees. Their spokesman (Joel Bitters) told the board about workplace concerns, mentioning that some employees had been attending union meetings. He urged prompt remedial action ''before they had to actually go to a union.''

In between board sessions, Chief Dalton saw Caudill in a hallway talking to an employee (Amber Pyle) whom she had recently disciplined. As she passed them, Dalton heard her name mentioned and both gave her what she perceived to be ''a dirty look.''

At work on the following day an angry Dalton, referring to the ''Amber incident,'' confronted Caudill telling him that if he had problems with her she wished he would discuss them ''to my face rather than behind my back.'' A heated conversation ensued with Caudill stating, among other things, that he had problems with the way she treated him and the field people and felt he was being sexually harassed by her. Dalton responded in kind, inquiring if Amber might find interesting his earlier accusation that she (Amber) had harassed him on the radio. Dalton ended the episode by pointing to the door and telling him ''Don't let it hit you in the ass on the way out.''[2] On March 25, Dalton brought the matter to Manager Eric Kuhn and, pointing to Caudill, said: ''I want you to talk to that.'' Kuhn, accepting Dalton's perception, orally admonished Caudill for being insubordinate by ''talking about her'' on the day of the board meeting.[3]

There followed a deepening tension between the two with Dalton taking every opportunity to fault Caudill's job performance.

On March 28 Dalton, without previously talking to Caudill, cited him in a ''conversation form''[4] posted on the dispatch room bulletin board for attempting to secure a replacement dispatcher without first contacting her. In the past Caudill on several occasions did the same thing and received no admonition.

On March 30 Caudill noted another posting to the bulletin board by Dalton. Therein he was given a written reprimand for failing to indicate on a shift log (or to tell his replacement) that an ambulance was out of service, an omission characterized by Caudill as minor.[5] On April 8 he called a similar omission by Dalton to Kuhn's attention and this tit-for-tat effort led to Kuhn's directing a written warning on April 12 to Dalton in which he stated, among other things, that the warning was issued so as ''to remain consistent with corrective action that has been taken in similar circumstances''; and on the same date he directed a lengthy memo to Caudill in the course of which he noted a lack of communication in the dispatch office and suggested that ''rather than pointing up petty mistakes, everyone should be concentrating on doing their jobs accurately.'' He went on to censure Caudill for bypassing the ''chain of command'' in the incident covered by Dalton's March 28 conversation form. Kuhn specified that a copy of his memo be placed in Caudill's personnel file.

Between mid-April and September an apparent truce prevailed.

On September 9, however, Caudill had two more citations posted on the bulletin board by Dalton. The first was a ''conversation'' for by-passing her and suggesting to Kuhn that certain information be highlighted on a form. The second was a written warning (prefaced by an ''I know you were busy but'') for failing to record that an airplane warning light on a communication tower was operating on the evening of September 9.[6] For that omission he was given a 1-day suspension and precluded from working as a paramedic in the field for 30 days.[7] Following the warning light citation, Dalton reviewed logs of other employees, citing them for similar omissions.[8]

A 3-day suspension was meted out to Caudill on October 5 in a memo from Kuhn written at the request of Dalton.[9]

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[2] Caudill claims Dalton's main inquiry was on a higher plane, that she inquired as to why he and the other hourly employees went to the meeting in the first place; and that he replied: ''We needed help from management and to show our support, we had to go there in a group, to show, basically, that we mean business and that we need help, because we're being mistreated.'' Weighing the probabilities in light of the whole record, I regard this assertion as an afterthought and do not credit it.

[3] Caudill claims that Kuhn also said (Tr. 30–31): ''Oh, these people are saying they're being mistreated. I don't understand that . . . if they don't like it they can leave.'' He provides no context for Kuhn's making the statement. Here too I view it as an after-the-fact embellishment of what happened.

[4] Under Respondent's rules these forms, although not disciplinary in nature, are placed in personnel files in order to document that a conversation took place between a supervisor and an employee and may be relied on in future disciplinary actions.

[5] Caudill signed a union authorization card on April 6.

[6] Prior to September 9 Dalton had not disciplined anyone for omissions in tower logs, although omissions did occur.

[7] Respondent's regulations provide that ''all dispatchers must work at least one shift per month as an EMT or paramedic in order to maintain their certification.''

[8] On September 15 Dalton issued (by posting) a written reprimand citing Chris Davis (another alleged discriminatee) for not making ''tower log'' checkoffs on 2 consecutive days in June. Two other employees (Steve Carver and Susie Emmit) were given conversation forms by Dalton. Carver received his on October 31, apparently for omitting a checkoff on that day; and Emmit was cited in early November for a lapse in August.

[9] In the memo Kuhn observed that the 3-day suspension was ''the final step in the progressive disciplinary process before termination.''

After observing that Caudill's prior tower light citation was not discriminatory because Dalton had written up others for the same omission, Kuhn recited a number of alleged lapses by Caudill during an extended shift which he began at 4 p.m. on September 16 and ended at 1:30 a.m. on September 17.[10] These include failing promptly to alert his relief dispatcher that he had placed an ambulance in ''5–A'' status (i.e., awaiting call while parked on a highway),[11] failing to make complete entries on about 13 ''run tickets,''[12] failing to document his having made a security check of the office and an incident of perceived rudeness to another dispatcher.[13] None of the items had been discussed with Caudill prior to October 5.

Caudill complained to a UMW representative and the latter, on October 11, wrote to Respondent asking that routinely taped dispatch messages on September 17 be retained for possible review by the Union. The letter elicited a response on October 21 in which Respondent's executive director (Charles Walters), after expressing his understanding that the Union had won the election held 2 days earlier, advised that review of the tapes revealed additional deficiencies of Caudill on September 17 for which ''further disciplinary action is necessary and will be forthcoming.''

The promised followup came in a memo given to Caudill on October 27 in which he was suspended 10 days for allowing himself to be distracted over a 10-minute period on September 17 from dispatching an ambulance to a patient undergoing an emergency asthma attack. Asked whether the incident had occurred, Caudill shrugged and replied: ''It happens.''

The final episode occurred about 10 weeks later, on Friday, January 6.

On that day, Caudill was on duty from 8 a.m. to 4 p.m. Beginning at about 1:30 p.m., the severest ice storm within local memory descended on the area of southeast Ohio served by Respondent. Within minutes walkways and roads became extremely slick and the ensuing spate of falls and multiple auto accidents produced an unprecedented demand for emergency service. Telephone and multichannel radio lines were simultaneously in use. Problems were compounded as ambulances had difficulty reaching victims. Caudill handled the situation alone until about 2:45 p.m. when his relief dispatcher arrived early. Dalton arrived shortly thereafter. According to Dalton, Caudill ''seemed real agitated.'' After observing a number of trip ticket assignments, she called Caudill's attention to the absence of ambulance numbers on a number of them, commenting, ''It's a mess.'' She claims he ''immediately took offense'' and replied, ''I couldn't help it or something like that.'' Caudill remained on the job until the situation eased at about 1 a.m. on Saturday.

Later that day Dalton spent considerable time listening to 20-track tapes of communications to and from Caudill during the ice storm, and she pinpointed and had Manager Kuhn listen to pertinent portions.

On Tuesday, January 10 just before his 4 p.m. quitting time, Dalton told Caudill to report to Kuhn. She accompanied him to an office where Kuhn was waiting. Sensing trouble, Dalton told them he wanted union representation if disciplinary action was intended. Kuhn denied the request and proceeded to read aloud a document (G.C. Exh. 24) he had previously prepared. Therein Caudill was suspended for 30 days because of four perceived serious derelictions during the storm,[14] and notified that the suspension ''would revert to a termination at the end of the 30 day period if you cannot provide adequate information to indicate why your employment should not be terminated.'' After finishing the reading, Kuhn handed a copy of the document to Caudill. At that point, Dalton addressed Caudill, and when he failed to respond she asked, ''Did you hear what I said?'' Caudill replied, ''No, I didn't [and] I don't have to talk to you.'' When Kuhn intervened saying, ''Yes you do, she's your supervisor,'' Caudill rejoined, ''No I don't. I'm out of here.'' With that he got up, walked out the door, and returned to the operations center where he packed his things and asked the on-duty dispatcher to notify the Union of his suspension.[15]

Dalton and Kuhn followed Caudill into the center. Leaning against a cabinet with her arms folded and a grin on her face, Dalton addressed Kuhn saying loud enough to he heard by all present: ''Eric, John's bothering the dispatcher. Tell him to leave.''

A threshold issue is whether denial of Caudill's request for union representation was a violation of a member's ''*Weingarten*'' right.[16] I find no basis for the allegation. Caudill was not being ''investigated'' or interviewed for the purpose of determining if or to what extent discipline should be imposed. Those matters had already been determined and manager Kuhn simply read and handed to Caudill the previously prepared warning letter.[17] Those circumstances ne-

[10] The dispatcher (Scott Schaffer) scheduled to relieve Caudill at midnight arrived at about that time but had to lie on the floor due to nausea and dizziness. Consistent with his practice of not initiating communications with Dalton, Caudill handed Schaffer the phone and had him call her at home to request sick leave.

[11] En route to his home Caudill, at about 2:15 a.m., called in to the dispatch office and reported the 5–A situation.

[12] Caudill claims, without contradiction, that the dispatcher who relieved him at 1:30 p.m. (Ron Woods) volunteered to complete the run tickets and computerize the data.

[13] Dalton explains that when a dispatcher (David Funk) had agreed at about 1 a.m. to relieve Caudill and then called Caudill back 10 minutes later to renege claiming sickness, Caudill improperly (''rudely'') questioned Funk's bona fides by asking: ''Are you really sick?'' Dalton was informed of Funk's unavailability by Schaffer, Caudill again handing him the phone as he lay on the floor.

[14] As written and recited to Caudill, the derelictions were for delayed dispatch of ambulances on two occasions—one for 15 minutes, the other for 45; failing to effectuate a requested fire department alert; and declining Dalton's telephone offer to come in and help.

[15] Not having responded to Kuhn during the 30-day period, Caudill was discharged on or about February 10, 1995. On February 14, a company personnel committee heard a grievance filed by Caudill and affirmed the discipline imposed by Kuhn.

[16] *NLRB v. Weingarten, Inc*., 420 U.S. 251 (1975).

[17] During the course of a lengthy letter to the Union dated February 7 (G.C. Exh. 59), a management consultant to Respondent (Robert Cross) states: ''We tried to give Mr. Caudill an opportunity on January 10 to explain why the events on January 6 occurred.'' The letter was received in evidence by stipulation as one of numerous documents produced in response to a subpoena and was not mentioned again at any point during the trial. I decline to credit the statement as accurately describing what happened at the meeting for two reasons: (1) pursuant to the stipulation, the letter was offered and received only for its ''authenticity'' (i.e., as correspondence sent by Respondent and received by the Union) and not as evidence of

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gate the right to representation. *Mobil Oil Corp*., 196 NLRB 1052 (1972). See also *NLRB v. Certified Grocers of California, Ltd*., 587 F.2d 449 (9th Cir. 1978).

Accordingly, the asserted independent violation of Section 8(a)(1) will be dismissed.

Turning to the alleged 8(a)(3) violations:

There is ample showing that the various disciplines, including discharge, imposed on Caudill were prompted by mutual antipathy between him and Supervisor Dalton and may have been unjust at least in some instances. But I am not persuaded that they were in any way due to protected activities.

When concerns about working conditions were presented to Respondent's board of trustees in March, Caudill was 1 of 35 employees in attendance and there is no indication he had a leadership role. Similarly, his participation in the organizing campaign was limited to signing an authorization card on April 6 and delivering blank cards to another employee; and there is no evidence that management knew of that involvement. His affiliation became apparent only when the Union filed an unfair labor practice on his behalf on October 7; and although Caudill was given a 10-day suspension 20 days later, any inference that it was motivated by the filing is entirely gratuitous. The suspension was for an admitted serious dereliction, a needless 10-minute delay in dispatching an ambulance in an emergency situation.

These circumstances, coupled with the absence of any history of union animus on Respondent's part, impel dismissal of these allegations as well.

the truth of matters contained therein and (2) the author (Cross) was not present at the meeting on January 10 and did not testify in this case as to his source. Further, the statement does not comport with the testimony of those present, including Caudill.

C. *Christopher Davis*

Like Caudill, Davis is one of several full-time dispatchers and is supervised by Dalton. Davis signed a union authorization card on April 6, distributed cards to about 15 to 20 other employees and testified in favor of including dispatchers in the unit at a representation hearing held sometime in late August or early September.

The only alleged unlawful incident concerning Davis involves a written reprimand issued to him by Dalton on September 15. Therein he is cited for failing to record whether airplane warning (''tower'') lights were operational during the nights of June 29 and 30.

I find no discrimination based on Davis' union activities. There is no showing that Dalton had any concern about or even knew of those activities. As noted above, Caudill was given a written reprimand dated September 9 for neglecting to record tower light status on that day, and I find probable that Davis' citation 6 days later was due either to a continuation of new found vigilance on the part of Dalton or an attempt to dispel any impression that the warning to Caudill was motivated by personal animosity, or both.

CONCLUSION OF LAW

For the reasons stated, I conclude that Respondent is not shown to have violated Section 8(a)(1), (3), and (4) of the Act as alleged in the complaint.

ORDER

The complaint is dismissed.